

Department of the Navy, DoD

§ 751.5

Subpart A—Claims Against the United States

§ 751.1 Scope.

This part prescribes procedures and substantive bases for administrative settlement of claims against the United States submitted by Department of Navy (DoN) personnel and civilian employees of the naval establishment.

[72 FR 53422, Sept. 19, 2007]

§ 751.2 Claims against the United States: In general.

(a) *Maximum amount payable.* The Military and Civilian Employees' Personnel Claims Act (Personnel Claims Act, 31 U.S.C. 3701, 3702, and 3721 (2004)), provides that the maximum amount payable for any loss or damage arising from a single incident is limited to \$40,000.00. Where the loss of or damage to personal property arose from emergency evacuations or other extraordinary circumstances, the maximum is \$100,000.00.

(b) *Additional instructions.* The Judge Advocate General of the Navy may issue additional instructions or guidance as necessary to give full force and effect to this section.

(c) *Preemption.* The provisions of this section and the Personnel Claims Act are preemptive of other claims regulations. Claims not allowable under the Personnel Claims Act may, however, be allowable under another claims act.

(d) *Other claims.* Claims arising from the operation of a ship's store, laundry, dry cleaning facility, tailor shop, or cobbler shop should be processed in accordance with NAVSUP P487.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

§ 751.3 Authority.

The Personnel Claims Act provides the authority for maximum payment up to \$40,000, \$100,000 in extraordinary circumstances for loss, damage, or destruction of personal property of military personnel or civilian employees incident to their service. No claim may be paid unless it is presented in writing

within 2 years of the incident that gave rise to the claim.

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§ 751.4 Construction.

The provisions of this section and the Personnel Claims Act provide limited compensation to service members and civilian employees of the DON for loss and damage to personal property incurred incident to service. This limited compensation is not a substitute for private insurance. Although not every loss may be compensated under the Personnel Claims Act, its provisions shall be broadly construed to provide reasonable compensation on meritorious claims. Adjudications must be based on common sense and the reasoned judgment of the claims examiner giving the benefit of realistic doubt to the claimant.

§ 751.5 Definitions.

(a) *Proper claimants*—(1) *Members of the DON.* All Navy and Marine Corps active duty members and reservists on active duty for training under Federal law whether commissioned, enrolled, appointed, or enlisted. A retired member may only claim under this Act if loss or damage occurred while the claimant was on active duty or in connection with the claimant's last movement of personal property incident to service.

(2) *Civilian employees of the Navy.* Federal employees of the naval establishment paid from appropriated funds. This term does not include Red Cross employees, USO personnel, and employees of Government contractors (including technical representatives).

(3) *Claims by non-appropriated fund employees.* Claims by employees of Navy and Marine Corps non-appropriated fund activities for loss, damage, or destruction of personal property incident to their employment will be processed and adjudicated in accordance with this part and forwarded to the appropriate local non-appropriated fund activity that employs the claimant for payment from non-appropriated funds.

(4) *Separation from service.* Separation from the service or termination of employment shall not bar former military personnel or civilian employees from

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filing claims or bar designated personnel from considering, ascertaining, adjusting, determining, and authorizing payment of claims otherwise falling within the provision of these regulations when such claim accrued prior to separation or termination.

(5) *Agent or legal representative.* The authorized agent or legal representative of a proper claimant may file on behalf of the claimant if the agent provides a power of attorney that complies with local law. Certain relatives of a deceased proper claimant may file any claim the claimant could have filed. The PCA identifies these relatives in order of priority. If multiple persons who the statute lists as equals in priority file separate claims, the first claim settled extinguishes the rights of the other claimants. The estate of a deceased proper party claimant is not a proper claimant, nor is an executor or personal representative who cannot file as a survivor. The PCA ranks surviving relatives in the following order of priority:

- (i) Spouse;
- (ii) Child or children;
- (iii) Father, mother, or both;
- (iv) Brother, sister, or both.

(b) *Improper claimants.* Insurers, assignees, subrogees, vendors, lienholders, contractors, subcontractors and their employees, and other persons not specifically mentioned as proper claimants.

(c) *Unusual occurrence.* Serious events and natural disaster not expected to take place in the normal course of events and hazards outside the normal risks of day-to-day living and working. Two different types of incidents may be considered unusual occurrences: those of an unusual nature and those of a common nature that occur to an unexpected degree of severity. Examples of unusual occurrences include structural defects in quarters, faulty plumbing maintenance, termite or rodent damage, unusually large size hail, and hazardous health conditions due to Government use of toxic chemicals. Examples of occurrences that are not unusual include potholes or foreign objects in the road, ice and snow sliding off a roof onto a vehicle, and tears, rips, snags, or stains on clothing. Claims that electrical or electronic de-

vices were damaged by a power surge may be paid when lightning has actually struck the claimant's residence or objects outside the residence, such as a transformer box, or when power company records or similar evidence shows that a particular residence or group of residences was subjected to a power surge of unusual intensity. In areas subject to frequent thunderstorms or power fluctuations, claimants are expected to use surge suppressors, if available, to protect delicate items such as computers or videocassette recorders.

(d) *Personal property.* Property including but not limited to household goods, unaccompanied baggage, privately owned vehicles (POV's), mobile homes, and boats.

(e) *Intangible property.* Property that has no intrinsic marketable value such as bankbooks, checks, promissory notes, non-negotiable stock certificates, bonds, baggage checks, insurance policies, money orders, and travelers checks.

(f) *Vehicles.* Include automobiles, motorcycles, mopeds, jet skis, utility trailers, camping trailers, trucks, mounted camper bodies, motor homes, boats, boat trailers, bicycles, and aircraft. Mobile homes and other property used as dwelling places are not considered vehicles.

[57 FR 5055, Feb. 12, 1992, as amended at 72 FR 53422, Sept. 19, 2007]

§ 751.6 Claims payable.

Claims for loss, damage, or destruction of property may be considered as set out below if possession of the property was reasonable and useful under the circumstances and the loss did not result from the negligence of the claimant. The following are examples of more common claims. Not all situations that may result in a claim are covered, but the processes described in the examples on how to approach, investigate, and adjudicate claims are applicable to all claims filed.

(a) *Transportation and storage losses.* (1) Incurred during transportation under orders, whether in possession of the Government, carrier, storage warehouse, or other Government contractor.